

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

ANTHONY RAIOLA

Plaintiff(s),

*-against-*ORDER OF FRANCIS ANDROMAN CATHOLIC DIOCESE  
OF BROOKLYN

Defendant(s).

Index No.

*Summons*

Date Index No. Purchased:

To the above named Defendant(s)

Order of Francis c/o New York Department of State, 123 William St #20, New York, NY 10038  
Roman Catholic Diocese of Brooklyn, 310 Prospect Park West, Brooklyn, NY 11215

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Defendants' principal place of business,  
which is in Kings County

Dated: August 15, 2019

Seeger Weiss LLP

by 

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***Attorneys for Plaintiff***

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS  
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ANTHONY RAIOLA,

Index No. \_\_\_\_\_

Plaintiff,

-against-

**COMPLAINT**

ORDER OF SAINT FRANCIS, and  
ROMAN CATHOLIC DIOCESE OF BROOKLYN,  
NEW YORK

Defendant.  
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**JURY TRIAL DEMANDED**

Plaintiff, Anthony Raiola, by and through the undersigned attorneys, complains of Roman Catholic Diocese of Brooklyn, New York and Order of Saint Francis and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

**PARTIES**

1. Plaintiff Anthony Raiola is a fifty-five-year-old resident of New York. Plaintiff was approximately fourteen to sixteen years old at the time of the sexual abuse alleged herein.

2. Defendant Order of Francis ("Franciscan Order") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials and employees authorized to conduct business in the State of New York with its principal place of business in Illinois. It can be served with process by serving the Department of State.

3. Defendant Roman Catholic Diocese of Brooklyn, New York a/k/a Diocese of Brooklyn ("Brooklyn Diocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials and employees

authorized to conduct business in the State of New York with its principal place of business at 310 Prospect Park West, Brooklyn, New York 11215.

### **JURISDICTION AND VENUE**

4. This Court has personal jurisdiction over Defendants pursuant to CPLR §§301 and 302, in that Defendants reside in New York or Plaintiff's claims arise from the tortious acts of Defendants that were committed in the State of New York.

5. The Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

6. Venue is proper in the County of Kings under CPLR §503 because all or a substantial part of the events or omissions giving rise to this cause of action occurred in Kings County, New York.

7. The federal courts lack jurisdiction over this suit. Plaintiff's claim raises no federal question, nor does Plaintiff seek relief under a federal law, statute, regulation, treaty, or the United States Constitution. Accordingly, Plaintiff's right to relief does not depend on the resolution of a substantial question of federal law. Further, this lawsuit cannot be removed because there is no complete diversity, as Defendants have their principal place of business in New York. Therefore, removal would be improper.

### **FACTS**

8. Plaintiff was a student at Bishop Ford Central Catholic High School ("Bishop Ford"), which was located at 500 19th Street, Brooklyn, New York 11215.

9. Alphonsus Maher ("Maher") served within the Franciscan Order and Brooklyn Diocese, and was the principal at Bishop Ford while Plaintiff was a student.

10. Plaintiff was approximately fourteen to fifteen years old at the time of his abuse by his principal, Maher.

11. At the time he was abused, Plaintiff had a difficult family situation at home and was also failing his gym class. Maher took advantage of Plaintiff's vulnerability when he deliberately exploited his knowledge of Plaintiff's home life and academic difficulty.

12. To lure Plaintiff into meeting with Maher alone, Maher told Plaintiff that he would guarantee Plaintiff would pass his gym class if Plaintiff came to meet with Maher in his office to perform a "special act."

13. When Plaintiff met with Maher in his office, Maher took Plaintiff's hand and forced Plaintiff to touch Maher's genitals through his pants. Maher also told Plaintiff to get down on his knees and perform oral sex on Maher while Maher drank whiskey from a silver tone flask.

14. This sexual abuse of Plaintiff by Maher was not an isolated event. Maher repeatedly sexually abused Plaintiff in the same manner once every week over a period of two years. Maher forced Plaintiff to perform oral sex on him each time and would praise Plaintiff during the abuse by saying "good, good, good."

15. As a foreseeable, direct, and proximate result of Plaintiff's sexual abuse, for many years Plaintiff suffered from recurrent nightmares, struggled with drug addiction, and experienced severe relationship and commitment issues that led him to lead a promiscuous lifestyle. When Plaintiff was finally able to maintain a steady, healthy relationship, he was diagnosed with HIV and has now been HIV positive for approximately twenty-three years.

16. As a foreseeable, direct, and proximate result of Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great, permanent harm, including but not limited to severe emotional distress, humiliation, embarrassment and loss of self-esteem.

17. Plaintiff has also suffered a severe disruption of his enjoyment of life, as well as his relationships with family, fellow Catholics, and others. His religious faith, together with its fellowship and other benefits, has been destroyed.

18. Due to Maher's sexual abuse, Plaintiff suffered chronic mental health issues, which have required and/or will require counseling and other treatment.

### **CAUSES OF ACTION AGAINST DEFENDANTS**

#### **A. VICARIOUS LIABILITY/*RESPONDEAT SUPERIOR***

19. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

20. Plaintiff affirmatively pleads that any alleged tortious acts of Maher were committed while he was acting in the course and scope of his employment with Defendants or while he was acting as an agent or on behalf of Defendants and are thus imputed to Defendants under a legal theory of *respondeat superior*.

#### **B. NEGLIGENCE**

21. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

22. Defendants held themselves out to be a safe place for religious worship, spiritual development and growth, learning and education, or engaging in youth and/or community activities. Defendants adopted, and/or assumed an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

23. Defendants owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Maher, in his role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer.

24. Defendants breached their duties of care in one or more of the following ways:
- a. Negligently hiring Maher as it knew or should have known that Maher posed a threat of sexual abuse to children;
  - b. Negligently retaining Maher as it knew or should have known that Maher posed a threat of sexual abuse to children;
  - c. Negligently directing Maher as it knew or should have known that Maher posed a threat of sexual abuse to children;
  - d. Negligently supervising Maher as it knew or should have known that Maher posed a threat of sexual abuse to children;
  - e. Failing to investigate the background of Maher before placing him into close contact with Plaintiff;
  - f. “Covering up” or otherwise failing to disclose the harmful acts of Maher;
  - g. Failing to warn Plaintiff, his parents and/or legal guardians of Maher’s conduct despite having constructive knowledge of sexual abuse;
  - h. Failing to warn Plaintiff, his parents and/or guardians of Maher’s conduct despite having actual knowledge of sexual abuse;
  - i. Assigning Maher to have contact with Plaintiff despite having constructive and/or actual knowledge of sexual abuse;
  - j. Minimizing, ignoring or excusing priestly misconduct over a period of decades;
  - k. Failing to provide a safe environment to children and other parishioners within the churches, sacristies, schools and rectories operated and/or owned by the Archdiocese;
  - l. Failing to train priests and Archdiocesan employees to identify signs of child molestation by fellow employees;
  - m. Failing to implement and maintain effective policies and procedures to prevent sexual abuse and abuse of children;
  - n. Failing to investigate complaints of abuse properly;
  - o. Failing to report Maher’s sexual abuse to appropriate law enforcement agencies; and



p. Failing to exercise due care under the circumstances.

25. As a foreseeable, direct, and proximate result of Defendants' negligence, Plaintiff has suffered and will continue to suffer the injuries described herein.

### **C. GROSS NEGLIGENCE**

26. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

27. Defendants' acts and omissions, as previously described, were committed with complete and reckless disregard for, and with willful, wanton, and actual conscious indifference to, the rights, safety, and welfare of Plaintiff and the general public. The nature of Defendants' acts and omissions were of such a nature as to constitute gross negligence and malice. Specifically, Defendants undertook a continuous course of action in the form of conscious decisions, with subjective knowledge and awareness of the risks and hazards presented by each decision as discussed above and incorporated herein, to expose Plaintiff and others to sexual abuse and/or sexual assault, and exercised not even slight care or diligence. When viewed objectively from the standpoint of Defendants at the time of their occurrence, said acts and omissions involved reckless disregard of or indifference to an extreme degree of physical, mental, and psychological risk and danger, considering the probability and the magnitude of the potential harm to others. Defendants committed various acts and omissions constituting gross negligence, as outlined above. Such gross negligence was a proximate cause of the occurrence and Plaintiff's injuries and damages.

### **D. BREACH OF FIDUCIARY DUTY**

28. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

29. There is a fiduciary relationship between Plaintiff and Defendants. This relationship is based on the fact that Plaintiff trusted his physical, mental, psychological, and spiritual care to the priests, officers, directors, officials, employees, volunteers, servants, and/or all those acting as agents of Defendants or on their behalf, who held themselves out as beholden to a spiritual and interpersonal duty to provide advice, benefit, and guidance to Plaintiff.

30. Because of this fiduciary relationship, Defendants were required and had a duty to act in the best interests of Plaintiff and to protect him while he was a minor child.

31. Defendants breached their fiduciary duty to Plaintiff.

32. As a foreseeable, direct, and proximate result of Defendants' breach of fiduciary duty, Plaintiff has suffered and will continue to suffer the injuries described herein.

**E. BREACH OF NON-DELEGABLE DUTY**

33. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

34. When Plaintiff was a minor, he was placed into the care of Defendants for the purpose of providing Plaintiff with a safe environment in which to receive and education and/or participate in religious worship, spiritual development, and community service. Because Defendants were entrusted with the care of Plaintiff while he was a minor child, there existed a non-delegable duty of care that went from Defendants to Plaintiff.

35. Since Plaintiff was a minor child at the time, Defendants were in the best position to prevent the abuse that Plaintiff suffered at the hands of Maher and/or stop such abuse when they learned of it.

36. Defendants failed to prevent the abuse and harm Plaintiff suffered, and/or it failed to stop the abuse once they were aware of or should have been aware of the abuse. This failure was a breach of Defendants' non-delegable duty to Plaintiff.

37. As a foreseeable, direct, and proximate result of this breach, Plaintiff suffered significant injuries and long-lasting damages.

**F. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

38. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

39. As described in Sections B-E, Defendants owed Plaintiff various duties, which Defendants negligently breached. Defendants' negligence unreasonably endangered Plaintiff and caused him to fear for his own safety.

40. As a foreseeable, direct, and proximate result of Defendants' negligence, Plaintiff suffered severe injuries, including but not limited to mental and emotional distress.

**G. BREACH OF DUTY *IN LOCO PARENTIS***

41. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

42. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendants for the purpose of providing Plaintiff an education and spiritual development.

43. During the times that Plaintiff was at school or present for spiritual development, he was under the control and supervision of Defendants. Defendants owed a duty to Plaintiff to act *in loco parentis* and to prevent foreseeable injuries.

44. Defendants breached their duty to act *in loco parentis*. As a foreseeable, direct, and proximate result of their breach, Plaintiff suffered injuries.

**H. FRAUDULENT CONCEALMENT**

45. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 11 as if fully set forth herein.

46. For many years after Plaintiff's abuse at the hands of Maher, Defendants engaged in a conscious, deliberate plan to conceal the abuse, including but not limited to:

- a. Concealing from the public the sexual abuse committed by Maher;
- b. Concealing the identity of Maher;
- c. Concealing from appropriate law enforcement officials the sexual abuse committed by Maher against Plaintiff and/or other minors;
- d. Attacking the credibility of Plaintiff and/or other victims of Maher; and
- e. Impeding or otherwise preventing Plaintiff and other victims from pursuing legal action against Defendants.

47. Defendants had a duty to disclose the information it concealed in Paragraph 39, and its concealment therefore amounted to a misrepresentation.

48. Defendants concealed this information with fraudulent intent, with the goal of inducing reliance.

49. Plaintiff, and others, justifiably relied upon Defendant's concealment of this material information.

50. As a foreseeable, direct, and proximate result of Defendants' concealment, Plaintiff suffered significant injuries.

**DAMAGES**

51. Plaintiff seeks compensation for the following damages that resulted from this incident:

- a. Past mental anguish of Plaintiff, and that he will, in all probability, suffer in the future;

- b. Past physical pain and suffering of Plaintiff, and that he will, in all probability, suffer in the future;
- c. The medical expenses that Plaintiff has incurred in the past and will, in all probability continue to incur in the future;
- d. Past and future lost wages;
- e. Loss of earning capacity;
- f. Cost of suit;
- g. Reasonable and necessary attorney's fees;
- h. Punitive damages;
- i. Exemplary damages; and
- j. Any and all other damages to which Plaintiff may be justly entitled.

#### **PRESERVATION OF EVIDENCE**

52. Plaintiff hereby requests and demand that Defendants preserve and maintains all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, or the damages resulting therefrom, including photographs; videotapes, audiotapes; recordings; business records; medical records; billing records; estimates; invoices; checks; correspondence; memoranda; files; facsimiles; e-mails; voicemails; text messages; investigations; cellular telephone records; calendar entries; and any electronic image, data, or information related to Plaintiff, the references incident, or any damages resulting therefrom. Failure to maintain such items will constitute spoliation of the evidence.

#### **JURY DEMAND**

53. Plaintiff demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

**WHEREFORE** Plaintiff prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiff recovers damages from Defendants in accordance with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff is entitled to recover compensatory damages; that Plaintiff recovers punitive damages; and for such other further relief, both general and special, both in law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,



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